

**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D.C. 20548

**FILE:** B-211916

**DATE:** June 27, 1983

**MATTER OF:** United Association of Journeymen and  
Apprentices of the Plumbing and Pipe  
Fitting Industry

**DIGEST:**

Protest that proper Department of Labor wage rate was not used in solicitation is untimely because it was filed with GAO more than 10 working days after notification by contracting agency of initial adverse action on protest filed with contracting agency.

The United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry, Local 818 (United), protests the award of a contract under Project No. 81-1070, issued by the Veterans Administration (V.A.). United contends that the procuring activity failed to use the proper Department of Labor wage rate determination for steamfitters in the solicitation. United explains that it was unable to protest this matter prior to bid opening because it did not receive a copy of the solicitation until after this time. Finally, United questions the qualifications of the low bidder in this procurement.

The V.A. informally advises that it received a protest from United concerning this matter on March 10, 1983, and by letter dated April 12, 1983, denied the protest.

We dismiss the protest as untimely.

Generally, to be timely under our Bid Protest Procedures, a protest must be filed prior to bid opening if, as here, it is based on alleged improprieties in the solicitation which are apparent on the face of the solicitation. 4 C.F.R. § 21.2(b)(1) (1983). In any event, United's protest is untimely because our Bid Protest Procedures require that protests initially filed with the contracting agency be filed with our Office within 10 working days of actual or constructive knowledge of initial adverse agency action. 4 C.F.R. § 21.2(a), (1983). Here, United initially filed its protest with the V.A. and this protest was denied by the V.A. by letter of April 12, 1983. Allowing a reasonable time for delivery of the V.A.'s April 12 letter, it appears

that United's protest filed with this Office on May 25, 1983 (more than a month after the V.A. mailed the denial), is untimely. See Chipman Van and Storage, Inc., B-205732, December 30, 1981, 81-2 CPD 515.

The protest is dismissed.

*Harry R. Van Cleve*  
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Acting General Counsel